

Senate Bill No. 1927

Passed the Senate August 18, 2000

Secretary of the Senate

Passed the Assembly August 10, 2000

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2000, at _____ o'clock ____M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Sections 6405 and 6408 of the Business and Professions Code, relating to legal document assistants.

LEGISLATIVE COUNSEL'S DIGEST

SB 1927, Haynes. Legal document assistants.

Existing law generally regulates, until January 1, 2003, legal document assistants, as defined, and, among other things, provides for the registration by the county clerk of those persons. Existing law requires an applicant for a certificate of registration to provide a bond in the amount of \$25,000.

This bill would reduce the amount of the bond that a legal document assistant who limits his or her practice solely to assisting either party in a small claims court action in the County of Riverside is required to provide for a certificate of registration from \$25,000 to \$5,000. This bill would enact other related provisions.

This bill would incorporate additional changes in Section 6405 of the Business and Professions Code proposed by AB 2810, to become operative only if those bills are enacted and become operative, as specified, and this bill is enacted last.

The people of the State of California do enact as follows:

SECTION 1. Section 6405 of the Business and Professions Code is amended to read:

6405. (a) (1) Except as provided in paragraph (3), application for a certificate of registration by an individual shall be accompanied by a bond of twenty-five thousand dollars (\$25,000) executed by a corporate surety qualified to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to twenty-five thousand dollars (\$25,000).



(2) An application for a certificate of registration by a partnership or corporation shall be accompanied by a bond of twenty-five thousand dollars (\$25,000) executed by a corporate surety qualified to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to twenty-five thousand dollars (\$25,000). An application for a certificate of registration by a person employed by a partnership or corporation shall be accompanied by a bond of twenty-five thousand dollars (\$25,000) only when the partnership or corporation has not posted a bond of twenty-five thousand dollars (\$25,000) as required by this subdivision.

(3) A legal document assistant who files an application for a certificate of registration in the County of Riverside, who limits his or her practice to that county, and who limits his or her practice solely to assisting either party in a small claims court action, may, in lieu of providing a bond of twenty-five thousand dollars (\$25,000), provide a bond of five thousand dollars (\$5,000) executed by a corporate surety qualified to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to five thousand dollars (\$5,000). An application for a certificate of registration accompanied by a bond of five thousand dollars (\$5,000) as authorized by this paragraph shall indicate that the legal document assistant limits his or her practice solely to assisting parties in small claims court actions.

(4) The bond may be terminated pursuant to Section 995.440 of, and Article 13 (commencing with Section 996.310) of Chapter 2 of Title 14 of Part 2 of, the Code of Civil Procedure.

(b) The county clerk shall, upon filing of the bond, deliver the bond forthwith to the county recorder for recording. The recording fee specified in Section 27361 of the Government Code shall be paid by the registrant. The fee may be paid to the county clerk, who shall transmit it to the recorder.



(c) The fee for filing, canceling, revoking, or withdrawing the bond is seven dollars (\$7).

(d) The county recorder shall record the bond and any notice of cancellation, revocation, or withdrawal of the bond, and shall thereafter mail the instrument, unless specified to the contrary, to the person named in the instrument and, if no person is named, to the party leaving it for recording. The recording fee specified in Section 27361 of the Government Code for notice of cancellation, revocation, or withdrawal of the bond shall be paid to the county clerk, who shall transmit it to the county recorder.

(e) In lieu of the bond required by subdivision (a), a registrant may deposit twenty-five thousand dollars (\$25,000) or five thousand dollars (\$5,000), as applicable, in cash with the county clerk.

(f) If the certificate is revoked, the bond or cash deposit shall be returned to the bonding party or depositor subject to subdivision (g) and the right of a person to recover against the bond or cash deposit under Section 6412.

(g) The county clerk may retain a cash deposit until the expiration of three years from the date the registrant has ceased to do business, or three years from the expiration or revocation date of the registration, in order to ensure there are no outstanding claims against the deposit. A judge of a municipal or superior court may order the return of the deposit prior to the expiration of three years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit.

SEC. 1.5. Section 6405 of the Business and Professions Code is amended to read:

6405. (a) (1) Except as provided in paragraph (3), application for a certificate of registration by an individual shall be accompanied by a bond of twenty-five thousand dollars (\$25,000) executed by a corporate surety qualified to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to twenty-five thousand dollars (\$25,000). An application for secondary



registration shall meet all of the requirements of this subdivision, except that in place of posting another original bond or cash deposit, the applicant shall include a certified copy of the bond or cash deposit posted in the county in which the applicant filed the primary registration.

(2) An application for a certificate of registration by a partnership or corporation shall be accompanied by a bond of twenty-five thousand dollars (\$25,000) executed by a corporate surety qualified to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to twenty-five thousand dollars (\$25,000). An application for a certificate of registration by a person employed by a partnership or corporation shall be accompanied by a bond of twenty-five thousand dollars (\$25,000) only if the partnership or corporation has not posted a bond of twenty-five thousand dollars (\$25,000) as required by this subdivision. An application for secondary registration shall meet all of the requirements of this subdivision, except that in place of posting another original bond or cash deposit, the applicant shall include a certified copy of the bond or cash deposit posted in the county in which the applicant filed the primary registration.

(3) A legal document assistant who files an application for a certificate of registration in the County of Riverside, who limits his or her practice to that county, and who limits his or her practice solely to assisting either party in a small claims court action, may, in lieu of providing a bond of twenty-five thousand dollars (\$25,000), provide a bond of five thousand dollars (\$5,000) executed by a corporate surety qualified to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to five thousand dollars (\$5,000). An application for a certificate of registration accompanied by a bond of five thousand dollars (\$5,000) as authorized by this paragraph shall indicate that the legal document assistant limits his or her practice solely to assisting parties in small claims actions.



(4) The bond may be terminated pursuant to Section 995.440 of, and Article 13 (commencing with Section 996.310) of Chapter 2 of Title 14 of Part 2 of, the Code of Civil Procedure.

(b) The county clerk shall, upon filing of the bond, deliver the bond forthwith to the county recorder for recording. The recording fee specified in Section 27361 of the Government Code shall be paid by the registrant. The fee may be paid to the county clerk, who shall transmit it to the recorder.

(c) The fee for filing, canceling, revoking, or withdrawing the bond is seven dollars (\$7).

(d) The county recorder shall record the bond and any notice of cancellation, revocation, or withdrawal of the bond, and shall thereafter mail the instrument, unless specified to the contrary, to the person named in the instrument and, if no person is named, to the party leaving it for recording. The recording fee specified in Section 27361 of the Government Code for notice of cancellation, revocation, or withdrawal of the bond shall be paid to the county clerk, who shall transmit it to the county recorder.

(e) In lieu of the bond required by subdivision (a), a registrant may deposit twenty-five thousand dollars (\$25,000) or five thousand dollars (\$5,000), as applicable, in cash with the county clerk.

(f) If the certificate is revoked, the bond or cash deposit shall be returned to the bonding party or depositor subject to subdivision (g) and the right of a person to recover against the bond or cash deposit under Section 6412.

(g) The county clerk may retain a cash deposit until the expiration of three years from the date the registrant has ceased to do business, or three years from the expiration or revocation date of the registration, in order to ensure there are no outstanding claims against the deposit. A judge of a municipal or superior court may order the return of the deposit prior to the expiration of three years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit.



(h) The bond required by this section shall be in favor of the State of California for the benefit of any person who is damaged as a result of the violation of this chapter or by the fraud, dishonesty, or incompetency of an individual, partnership, or corporation registered under this chapter. The bond required by this section shall also indicate the name of the county in which it will be filed.

SEC. 2. Section 6408 of the Business and Professions Code, as amended by Section 15 of Chapter 1079 of the Statutes of 1998, is amended to read:

6408. (a) The registrant's name, business address, telephone number, registration number, and county of registration shall appear on any solicitation or advertisement, and on any appropriate papers or documents prepared or used by the registrant, including, but not limited to, contracts, letterhead, business cards, correspondence, documents, forms, claims, petitions, checks, receipts, money orders, and pleadings.

(b) In addition to the requirements of subdivision (a), all registrants who post a reduced bond pursuant to paragraph (3) of subdivision (a) of Section 6405 shall include on any solicitation or advertisement, and on the registrant's work product, including, but not limited to, letterhead, correspondence, documents, forms, claims, petitions, checks, receipts, money orders, pleadings, and other papers, a statement that the registrant is only authorized to provide services in small claims court matters.

(c) This section shall remain in effect only until January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 6405 of the Business and Professions Code proposed by both this bill and AB 2810. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2)

each bill amends Section 6405 of the Business and Professions Code, and (3) this bill is enacted after AB 2810, in which case Section 6405 of the Business and Professions Code, as amended by AB 2810, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill shall become operative, and Section 1 of this bill shall not become operative.



Approved _____, 2000

Governor

